IN THE HIGH COURT OF JUDICAUTRE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

(5) **WRIT PETITION NO. 1917 OF 2005**

Kirtibhai Ratanchand Vora ... Petitioner

Versus

The Greater Bombay Co-op. Bank
Ltd. and Ors. ... Respondents

Mr. Swapnil Borkar i/by Y.R. Shah for Petitioner.

Mr. S.R. Bhalekar for R. No. 1.

Mr. P.G. Sawant for R. Nos. 2 and 3.

CORAM : F.I. REBELLO,J.
DATED : AUGUST 17, 2005

P.C.

. The challenge by the Petitioner is to the recovery certificate and subsequent proceedings for recovery initiated by respondent No. 1 based on which Respondent NO. 2 has issued order of attachment of the suit flat belonging to the Petitioners. As on date, according to Petitioners he has already paid sum of Rs. 41,000/- and Rs.35,000/- has been deposited in this court. Thus the balance remaining would not be such as to warrant sale of the Petitioner's flat.

. At the time of hearing of this petition, on behalf of Petitioner, it is contended that the claim made by respondent No. 1 is exhorbitant. That issue cannot be gone into in exercise of extra

ordinary jurisdiction of this court. The fact finding authority based on the agreement between the parties has worked out the amounts due and payable in terms of the agreement. That order was subject to revision which has also been rejected. The interest is also claimed based on the agreement itself. I therefore, do not find any error apparent in the impugned orders.

. If it is the contention of the Petitioner that he has paid moneys which have not been adjusted, it will be open for him to file his objections which are available under Rule 107 of the Rules framed under the Maharashtra Cooperative Societies Act. It is for the Recovery Officer, if such objection is raised to consider the same and allow or disallow the same. Considering the fact that the Petitioner has remedy in execution, this will not be a fit case for this court to exercise its extra ordinary jurisdiction.

. The Petitioner to file his objections within two weeks from today. The Recovery Officer is directed to consider the objections of the Petitioners within six weeks thereafter. Untill such time, attachment will continue but there will be no sale. Rule is made absolute accordingly. No order as to

costs. On respondent No. 1 producing certified copy of this order to the Prothonotary, the amount deposited in this court be made over to respondent No. 1 to be adjusted against the amount of certificate. Needless to say if the objections are not filed within two weeks, it will be open to Recovery Officer to proceed in accordance with law.

(F.I. REBELLO,J.)